

**UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA**

**Richard Katz**

Plaintiff

Case No.: **3:15-cv-01187**

v.

**NATIONAL BOARD OF MEDICAL EXAMINERS (NBME)**

3750 Market Street

Philadelphia, PA 19104

and

**FEDERATION OF STATE MEDICAL BOARDS (FSMB)**

400 Fuller Wiser Road, Suite 300

Euless, Texas 76039-3855

Defendants

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**MOTION TO MODIFY PRELIMINARY PRETRIAL ORDER**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, and for the reasons enumerated in the accompanying Memorandum of Law, plaintiff moves this Court to modify its September 1st, 2015 Scheduling Order. Plaintiff proposes changing the following amended pretrial deadline:

**Plaintiff's expert disclosure deadline: Changed from January 15, 2016 to February 15, 2016 and all remaining deadline dates sequentially following based on the Courts recommendation.**

**This proposed change in schedule may require postponement of the final pre-trial conference and trial to available dates on the Court's calendar.**

This extension would not prejudice defendants, however; instead it will help to ensure that this Court will have before it an appropriately complete factual record on which to decide the important issues in this case. A Memorandum of Law follows detailing the specific modifications requested and the arguments in support of this motion.

Respectfully submitted,

/s/ Richard Katz

Richard Katz

Pro se

## **MEMORANDUM IN SUPPORT**

On September 1st, 2015, this Court entered a scheduling order that sets a number of deadlines, which includes: a February 15, 2016 discovery cut-off, a January 15, 2016 deadline for disclosure of plaintiffs' experts, a February 15, 2016 deadline for disclosure of defendants' experts, a March 1, 2016 Supplementations cutoff and an April 1, 2016 deadline for filing dispositive motions. (Document No. 34, September 1<sup>st</sup> 2015, Scheduling Order.)

**Plaintiff seeks an amended scheduling order with the following deadlines:**

**Plaintiff's expert disclosure deadline: Changed from January 15, 2016 to February 15, 2016 and all remaining deadline dates sequentially following based on the Courts recommendation.**

**This proposed change in schedule may require postponement of the final pre-trial conference and trial to available dates on the Court's calendar.**

Pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, a scheduling order may be modified "for good cause and with the judge's consent." The Sixth Circuit has held that "[t]he primary measure of Rule 16's 'good cause' standard is the moving party's diligence in attempting to meet the case management order's requirements." *Inge v. Rock Financial Corp.*, 281 F.3d 613, 625 (6th Cir. 2002) (internal citations omitted). Courts "should also consider possible prejudice to the party opposing the modification." *Andretti v. Borla Performance Industries, Inc.*, 426 F.3d 824, 830 (6th Cir. 2005).

**Good cause exists in this instance because timely motions submitted by plaintiff have been pending on the court docket since September 2015 that are crucial to plaintiff's success with discovery. The following motions are currently pending before the Court:**

- 1. MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT AND BRIEF IN SUPPORT THEREOF Submitted 11/17/2015**
- 2. MOTION FOR RECONSIDERATION TO SEAL DOCUMENTS Submitted 09/18/2015**
- 3. SECOND MOTION FOR APPOINTMENT OF COUNSEL Submitted 12/01/2015**
- 4. MOTION FOR A MOTION OF HEARING Submitted 12/01/2015**
- 5. MOTION TO WAIVE COSTS OF, DEPOSITION - FOR LAY AND EXPERT WITNESS FEES, AND COURT REPORTER FEES Submitted 01/08/2016**

Plaintiff has propounded interrogatories, drafted requests for production of documents and has prepared at least one subpoena pending the above ruling. The bulk of plaintiffs' discovery to

date has focused on learning the principles and theories of drafting interrogatories (as no attorney has been appointed by Court to date) and obtaining crucial substantiating medical documents from caregivers in a timely manner. This process has consumed much more time and effort than plaintiff anticipated when the discovery schedule was first set.

Therefore, Plaintiffs' motion to modify the scheduling order should be granted.

Respectfully submitted,

Date: January 12, 2016

/s/ Richard Katz

Richard Katz

Pro se

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Plaintiffs' Motion to Modify Preliminary Pretrial Order was filed electronically on January 12, 2016. Parties may access this document through that system.

Date: January 12, 2016

/s/ Richard Katz

Richard Katz

Pro se